



**BUILDING AND STANDARDS COMMISSION
MINUTES
PANEL 1**

REGULAR MEETING
Date: January 27, 2016

The Building and Standards Commission ("BSC") convened for a regular meeting on Wednesday, January 27, 2016 at City Hall, Boards and Commission Room, Room 1101, 301 West 2nd Street, Austin, Texas.

Commission Members in Attendance:

Charles Cloutman, Chair; Jessica Mangrum, Vice Chair; Ashley Holmes; Matthew Gonzales; Wordy Thompson; Abraham Cohen; and John McIntyre.

Staff in Attendance:

Christopher Moore, BSC Coordinator; Paul Tomosovic, Assistant Director; Marcus Elliott, Division Manager; Dan Cardenas, Assistant Director; Robin Harris, Assistant City Attorney; Carl Smart, Director; Merlinda Coleman, Program Specialist; Edgar Hinojosa, Assistant Division Manager; Doug Jansky, Administrative Hearing Coordinator; Chris Maldonado, Investigator; John Hale, Acting Assistant Division Manager; Alicia Tovar, Investigator; Michael Reeves, Investigator; Richard Lamancusa, Investigator; Brian Eberwine, Investigator; Anthony McBryde, Investigator; Elaine Garrett, Division Manager; Troy Collins, Investigator; Nicole Leal, Investigator; Todd Wilcox, Division Manager; Robert Alvarado, Assistant Division Manager; Hilda Martinez, Investigator; Officer Josh Hovishi, APD Region 4 District Representative; Matthew Noriega, Assistant Division Manager; Moses Rodriguez, Investigator; Detective Monroe, APD Nuisance Abatement Unit.

CALL TO ORDER

Chair Charles Cloutman called the Commission Meeting to order at 6:32 p.m.

1. CITIZEN COMMUNICATION: GENERAL

Citizen Gerald Duisberg spoke before the Commission regarding his property located at 2300 Jenibeth Lane. A demolition order dated September 10, 2015 was placed on the property by the Commission. Mr. Duisberg requested that the Commission 1) place his case on the February 24, 2016 agenda; and 2) reconsider the demolition order; and allow him to make the required repairs to bring the home into compliance in lieu of demolition. Chair Cloutman requested that the homeowner work with staff concerning his request, and that the Austin Code Department should make the determination as to whether the case be posted for action on February's agenda.

Citizen Nelva Jones appeared before the Commission along with her contractor concerning her father's property located at 2906 E. 13th Street. Ms. Jones stated that she was ready to make repairs to the property and sell it. She asked the Commission for additional time to make repairs and to stop accrual of penalties per an order issued by the Commission in October 2015. Chair Charles Cloutman advised Ms. Jones that she reach compliance as soon as possible to stop the accrual of fees, and then once in compliance, she should talk to the Code Department about the process for returning to the Commission to address the penalties accrued.

2. PUBLIC HEARINGS

A. New Case(s)

Acting Commission Coordinator/ ADM Edgar Hinojosa presented the following cases:

<u>Case Number</u>	<u>Street Address</u>	<u>Owner</u>
a. 2015-134671	1305 Walnut Avenue	Cleo Wilson

The property located at 1305 Walnut Avenue is an occupied, single-family residential structure without utilities that also has a history of criminal activity. The case was represented by the owner's daughter-in-law, Willie Jean Houston.

Staff's recommended order included: 1) to restore and maintain hot water and electricity within 14 days; 2) request inspection to verify compliance; 3) to vacate, relocate and secure the structure within 48 hours if restoration of utilities are not completed within 15 days; 4) secure and leave structure vacant until compliance is achieved; allow any peace officer of the State to enforce and carry out order; and if not in compliance, the City may file a lien against the property for any expenses incurred.

A neighbor, Ms. Padilla spoke regarding the property and requested that the Commission consider demolishing the property.

Chair Charles Cloutman admitted Exhibits 1 and 2A through 2S. Commission Member Abraham Cohen made a motion to adopt staff's proposed findings of fact and conclusions of law for this property and recommended order as proposed with the exception to add a demolition order 90 days after the order is mailed to the property owner. The motion was seconded by Commission Member Ashley Holmes. The motion carried on a 6-0 vote.

b. 2015-134623 2200 S L Davis Avenue James & Martha Caswell

The property located at 2200 S L Davis Avenue is an unoccupied, fire damaged residential structure. The case was represented by owner, James Caswell. Staff recommended completion of repairs or demolition within 45 days with a penalty of \$500 per week to accrue after that time if not in compliance was not reached; or, in lieu of repair, order the City to proceed with demolition after 45 days if compliance is not achieved.

Chair Charles Cloutman admitted Staff's Exhibit 1 and 2A through 2I. Commission Member John McIntyre made a motion to accept staff's findings and recommended order, which was seconded by Commission Member Abraham Cohen. The vote carried on a 6-0 vote.

c. 2016-002637 6722 Lost Valley David Claitor

The property located at 6722 Lost Valley is a single-family residential structure with an open unsecured accessory structure that had been swept from its piers during a flood and deposited in the creek bed. The case was not represented. This Staff's recommended order included, but is not limited to, demolition of the accessory structure within 45 days, and if compliance not achieved within 45 days of date of mailing; and if not completed, the City may proceed with demolition of the structure and file a lien for all expenses incurred by the City unless exempted by the Texas Constitution.

Chair Charles Cloutman admitted Staff's Exhibit 1 and 2A through 2M.

Co-Chair Jessica Mangrum made a motion to accept the recommended order as set out by staff with the proviso that they strike the 45 day provision and instead give the owner 7 days to comply; and, if compliance is not met within that time period, the City can demolish within two weeks, Commission Member Ashley Holmes seconded the motion, which carried on a 6-0 vote.

d. 2016-002640 6421 Tara Drive Ana & Nora Pedroza

The property located at 6421 Tara Drive is a single-family fire-damaged residential structure. The case was not represented. Staff's recommended order included, but was not limited to, repair within 45 days from the date of mailing the order and if compliance was not met within that time frame, a fine of \$250 per week would begin to accrue. Additionally, if the property did not come into compliance after 45 days, the City may proceed with demolition and file a lien for all expenses incurred unless exempted by the Texas Constitution.

Chair Charles Cloutman admitted Staff's Exhibit 1 and 2A through 2M. Co-Chair Jessica Mangrum made a motion to accept the recommended order as set out in the proposed order by Code, seconded by Commission Member Ashley Holmes. The vote carried unanimously on a 6-0 vote.

e. 2016-002642 5316 Sunshine Drive Jon Robinson

The property located at 5316 Sunshine Drive is a single-family unoccupied residential structure. The case was not represented. Staff's recommended order included demolition within 45 days, and if compliance not achieved within 45 days of the date the order is mailed to the owner, a fine of \$250 would begin to accrue. Staff recommends an order that includes, but is not limited to, repair of the structure within 45 days, with a penalty of \$250 per week after 45 days.

Chair Charles Cloutman admitted Staff's Exhibit 1 and 2A through 2T.

Co-Chair Jessica Mangrum made a motion to adopt the recommended order as set out by Code with the modification to change the fine to \$750 per week, seconded by Commission Member Abraham Cohen. The vote carried on a 6-0 vote.

B. Returning Case(s)

<u>Case Number</u>	<u>Street Address</u>	<u>Owner</u>
a. 2014-105655	1808 Walnut Avenue	Asmahan Rasool

The property located at 1808 Walnut Avenue is a single-family residential structure that is homesteaded. The case was represented by homeowner Asmahan Rasool and her cousin Janice Brown. This is a returning case that previously came before the Commission on December 2014 and September 2015. A BSC order was issued in September, 2015 for repairs within 45 days, with fines of \$350 to begin to accrue if repairs were not made. Staff requested that the existing order be kept in place.

Chair Charles Cloutman admitted Exhibits 1 and 2A through 2K on this property. The owner requested that the Commission waive the current penalties and stop the accrual of fines as per the existing order. The owner provided documents including proof of funding, bids, a signed contract with a contractor starting today, an activated building permit, an invoice from the contractor, and credentials from the architect and contractor.

A motion was made by Vice Chair Jessica Mangrum to put the case in abeyance until next month's hearing. Commission Member John McIntyre proposed a friendly amendment to continue the case until the March hearing, which was accepted by Vice Chair Mangrum. The motion was seconded by Commission Member Abraham Cohen. The motion carried on a 7-0 vote.

b. 2015-098837, et al.	1124 Rutland Dr., Bldgs. 1-18 & Main Office	NAHC Cross Creek Apartments, LLC
2015-098835	1124 Rutland Drive, Bldg. 1	NAHC Cross Creek Apartments, LLC
2015-088845	1124 Rutland Drive, Bldg. 2	NAHC Cross Creek Apartments, LLC
2015-098847	1124 Rutland Drive, Bldg. 3	NAHC Cross Creek Apartments, LLC
2015-098850	1124 Rutland Drive, Bldg. 4	NAHC Cross Creek Apartments, LLC
2015-098853	1124 Rutland Drive, Bldg. 5	NAHC Cross Creek Apartments, LLC
2015-098854	1124 Rutland Drive, Bldg. 6	NAHC Cross Creek Apartments, LLC
2015-098857	1124 Rutland Drive, Bldg. 7	NAHC Cross Creek Apartments, LLC
2015-098861	1124 Rutland Drive, Bldg. 8	NAHC Cross Creek Apartments, LLC
2015-098864	1124 Rutland Drive, Bldg. 9	NAHC Cross Creek Apartments, LLC
2015-098869	1124 Rutland Drive, Bldg. 10	NAHC Cross Creek Apartments, LLC
2015-098870	1124 Rutland Drive, Bldg. 11	NAHC Cross Creek Apartments, LLC
2015-098871	1124 Rutland Drive, Bldg. 12	NAHC Cross Creek Apartments, LLC
2015-098874	1124 Rutland Drive, Bldg. 13	NAHC Cross Creek Apartments, LLC
2015-098877	1124 Rutland Drive, Bldg. 14	NAHC Cross Creek Apartments, LLC
2015-098880	1124 Rutland Drive, Bldg. 15	NAHC Cross Creek Apartments, LLC
2015-098881	1124 Rutland Drive, Bldg. 16	NAHC Cross Creek Apartments, LLC
2015-098885	1124 Rutland Drive, Bldg. 17	NAHC Cross Creek Apartments, LLC
2015-098886	1124 Rutland Drive, Bldg. 18	NAHC Cross Creek Apartments, LLC
2015-098837	1124 Rutland Drive, Main Office	NAHC Cross Creek Apartments, LLC

The property, Cross Creek Apartments, located at 1124 Rutland Drive, Buildings 1-18 and Main Office, is an occupied commercial apartment complex. The property was represented by Jim Eubank, attorney for the owner and Frank Fuentes, the contractor for the owner. An appeal was heard on this property in September and an order was issued the following month on October 28. Per the order, the owners' representatives were to provide monthly reports to the Commission regarding the future funding for repairs to this property and water temperature readings. Penalties for lack of hot water have accrued to date in the amount of \$35,500.

BSC Coordinator Cristopher Moore stated that there is also pending litigation in district court, where a hearing is scheduled for February 2 regarding a temporary injunction for hot water. Staff requested that the existing order be left in place.

Code Officer Hilda Martinez provided a status update that included lack of consistent hot water throughout the property.

Attorney Jim Eubanks provided a status update on behalf of the owners regarding the hot water issue; the temporary injunction; and future funding. Contractor Frank Fuentes spoke regarding the status of building permit, emergency repairs and replacing the loops.

Chair Cloutman admitted Staff's Exhibits 1 and 2A through 2J into the record. Commission Member Abraham Cohen made a motion to close the public hearing and no action to be taken, seconded by Commission Member Matthew Gonzales. The motion carried unanimously on a 6-0 vote.

C. Appeals

- | <u>Case Number</u> | <u>Street Address</u> | <u>Owner</u> |
|---|--------------------------------------|-------------------------------------|
| a. 2015-134774 | 5203 Martin Avenue | Khankham Manivong |
| The property located at 5203 Martin Street was represented by the owner/seller Khankham Manivong and the buyers. The appellant appealed the violations he was cited for. | | |
| Chair Charles Cloutman admitted Staff's Exhibits 1 and 2A through 2L into evidence. | | |
| Vice Chair Jessica Mangrum made a motion to accept the proposed findings of fact and conclusions of law and deny the appeal. The motion was seconded by Commission Member John McIntyre. The vote carried on a 6-0 vote and the appeal was denied. | | |
| b. 2014-067040 | 1818 Lakeshore Boulevard # 16 | Brenda Howard |
| The property located at 1818 Lakeshore Boulevard # 16 was pulled from the agenda. | | |
| c. 2014-116184 | 1210 Garden Street, Unit A | 1210 Garden Street, LP |
| The property located at 1210 Garden Street was represented by the owners' representative, Attorney Thomas Sellers, and one of the two partners, Jason Martin. Interested third parties Guy Duel, Tracy Smith, Richard Sly, Joann Estrada and Christian Hotop also spoke regarding the property. The owners appealed the suspension of their Short Term Rental Type 2 license. | | |
| Chair Charles Cloutman accepted into evidence Owner's brief of appeal, affidavit from owner of 12 th & Garden Unit B, and letter from Director Smart to Ms. Hotop. Chair Cloutman also admitted Staff's Exhibits 1 and 2 for this property. | | |
| A motion was made by Co Chair Jessica Mangrum to deny the owners' appeal, which was seconded by Commission Member John McIntyre. The motion carried on a 5-1 vote and the appeal was denied. Commission Member Abraham Cohen voted in opposition. | | |
| d. 2015-119150 | 4924 Lexington Meadow Lane | Disha & Dharmesh Bhakita |
| The property located at 4924 Lexington Meadow Lane was represented by the property owners. The appellants appealed Code's denial of their application for a Type 1 Short Term Rental (STR) license for over occupancy and operating without a license. | | |
| Commission Member Matthew Gonzales made a motion to deny the owner's appeal, which was seconded by Commission Member Ashley Holmes. The motion carried on a 6-0 vote and the appeal was denied. | | |
| e. 2015-118359 | 9100 Skye Cove | Solange Florez |
| The property located at 9100 Skye Cove was represented by Attorney Patrick Sutton, owner Solange Florez and the owner's partner Linda Rosena. The appellant appealed Code's denial for a Short Term Rental (STR) license due to multiple complaints. | | |
| Staff recommended that the Commission adopt the proposed Findings of Fact and Conclusions of Law for this property; admit Exhibits 1 and 2; and, deny the owner's appeal. | | |
| Attorney Sutton offered the Homeowner's exhibits into evidence. Further he stated that 1) the homeowner had met all of the requirements for a license, 2) there was no adjudication or proven complaints against the property and 3) that her appeal should be granted and she should still be allowed to obtain a license. | | |
| Commission Member John McIntyre moved to continue the case for 30 days; and was seconded by Vice Chair Jessica Mangrum. The motion carried unanimously on a 7-0 vote. | | |

f. 2015-110532 2612 Hidalgo Street

Dwayne Stoltz

The property located at 2612 Hidalgo Street was represented by owner, Dwayne Stoltz and his attorney Patrick Sutton. The appellant appealed Code's denial to renew his expired Type 1 Short Term Rental (STR) license.

Two neighbors also spoke to the Commission regarding the complaints at this property.

Chair Charles Cloutman admitted Exhibits 1 and 2 for this property. Commission Member Ashley Holmes made a motion to grant the owner's appeal. The motion died for lack of a second. Co-Chair Jessica Mangrum made a motion to continue this appeal for 30 days. Commission Member John McIntyre seconded the motion. The motion failed 4-3, with Chairman Cloutman, Commission Member Wordy Thompson and Commission Member Abraham Cohen. Co-Chair Jessica Mangrum made a new motion that the appeal be denied, seconded by Commission Member Wordy Thompson. The motion carried 6-0 and the appeal was denied.

3. DISCUSSION AND BRIEFINGS

A. Report from Repeat Offenders Working Group

Chair Cloutman pushed this report to next month's meeting and asked that it be placed on the agenda.

4. FUTURE AGENDA ITEMS

A. Report from the Repeat Offenders Working Group

Per Chair Cloutman, this is to be placed on next month's agenda.

5. ADJOURNMENT

Chairperson Charles Cloutman adjourned the Commission Meeting at 11:33 pm on Commission Member Ashley Holmes' motion. Co-Chair Jessica Mangrum seconded without any objection on a 6-0-0 vote.